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NEWS RELEASE

Release Number: **S.C. 50/11**

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Summary of Cases Accepted During the Week of December 12, 2011

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The statement of the issue or issues in each case set out below does not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#11-138 *In re Cabrera*, S197283. (F059511; 198 Cal.App.4th 1548, mod. 199 Cal.App.4th 899a; Kern County Superior Court; HC011446A.) Petition for review after the Court of Appeal granted relief on a petition for writ of habeas corpus. This case presents the following issue: Did the Court of Appeal improperly interpret title 15, section 3378, subdivisions (c)(3) and (c)(4), of the California Code of Regulations to require evidence of a “mutual relationship” between the inmate and a validated gang member or associate in order to validate the inmate’s own gang status?

#11-139 *People v. Gonzales*, S197036. (G044384; 199 Cal.App.4th 219; Orange County Superior Court; 09WF0504.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Rodriguez*, S187680 (#11-01), which presents the following issue: May an active participant in a criminal street gang be found guilty of violating Penal Code section 186.22, subdivision (a), when, acting entirely alone, he commits a felony, and there is no other evidence indicating the crime had anything to do with the gang?

#11-140 *People v. Gray*, S197749. (B224430; 199 Cal.App.4th 167; Los Angeles County Superior Court; BA356207.) Review on the court’s own motion after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court ordered briefing

deferred pending decision in *People v. Shockley*, S189462 (#11-25), which presents the following issue: Is battery a lesser included offense of committing a lewd act with a child under 14 years of age?

#11-141 *In re Juan D.*, S197299. (A130776; nonpublished opinion; Mendocino County Superior Court; SCUKJDSQ1015960.) Petition for review after the Court of Appeal affirmed and reversed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *In re Greg F.*, S191868 (#11-59), which presents the following issue: Can a juvenile court dismiss a juvenile wardship petition in the interests of justice and commit a juvenile ward to the Department of Juvenile Justice on the basis of a prior sustained petition, even though Welfare and Institutions Code section 733 prohibits such a commitment of a juvenile ward unless “the most recent offense alleged in any petition and admitted or found to be true by the court” is a offense specified in subdivision (c) of that section and the offense alleged in the dismissed petition was not one of those specified offenses?

#11-142 *People v. Muniz.*, S196916. (E049333; 198 Cal.App.4th 1324; Riverside County Superior Court; RIF129131.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Aranda*, S188204 (#11-06), which issues concerning a trial court’s failure to give a standard reasonable doubt instruction, and pending decision in *People v. Brown*, S181963 (#10-64), which presents issues concerning the retroactivity of former Penal Code section 4019, as amended to increase presentence custody credits for certain offenders.

DISPOSITIONS

Review in the following cases was dismissed in light of *People v. Vang* (2011) 52 Cal.4th 1038:

#10-112 *People v. Sitthideth*, S186346.

#10-139 *People v. Craig*, S187141.

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